

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

RODNEY JONES,

Defendant and Appellant.

D073417

(Super. Ct. No. SCD271137)

APPEAL from a judgment of the Superior Court of San Diego County, Melinda J. Lasater, Judge. Affirmed.

Robert V. Vallandigham, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Charles C. Ragland and Scott C. Taylor, Deputy Attorneys General for Plaintiff and Respondent.

Police officers approached a vehicle stopped in an alley to investigate a potential parking violation. While one officer contacted the vehicle's driver, his partner

approached the passenger's side where Rodney Jones was seated and asked if he could see Jones's identification. Jones refused. The officer then noticed an open container of alcohol near Jones's feet and demanded Jones's identification. Jones continued to refuse to provide identification and failed to exit the vehicle despite officers' repeated demands. Officers forcibly removed Jones from the vehicle and were required to subdue him before they were able to handcuff him and place him under arrest. Jones was charged with two counts of resisting an executive officer (Pen. Code, § 69).¹

Before trial, Jones filed a motion to suppress evidence, arguing he was unlawfully detained without reasonable suspicion to support his detention, in violation of the Fourth Amendment's prohibition against unreasonable seizures. (U.S. Const., 4th Amend.) The trial court denied Jones's motion. Jones proceeded to trial and a jury convicted him on both counts of resisting an executive officer.

On appeal Jones renews his argument that he was unlawfully detained. We find the trial court properly denied Jones's motion to suppress and we affirm the judgment.

FACTS

Jones filed a pretrial motion to suppress evidence pursuant to section 1538.5.² The parties stipulated to using the preliminary hearing testimony for purposes of the

¹ Unless otherwise specified, statutory citations are to the Penal Code.

² Section 1538.5 provides that "[a] defendant may move . . . to suppress as evidence any tangible or intangible thing obtained as a result of a search or seizure" on the ground that "[t]he search or seizure without a warrant was unreasonable." (*Id.*, subd. (a)(1)(A).) Jones sought to suppress all observations by the police officers, all evidence seized subsequent to the arrest, and all statements made by Jones "before, during and after the field investigation."

motion. The prosecution also played a portion of the footage from the arresting officer's body-worn camera and adduced additional testimony from the arresting officer. We summarize the facts from these sources.³

A. Evidence from Suppression Hearing

At the preliminary hearing, the arresting officer testified that while on patrol on March 11, 2017, around midnight, he and his partner approached a vehicle parked in an alley. The officer was able to drive the police car past the parked vehicle with "mere inches" on each side of the patrol vehicle.⁴ The parked vehicle was "blocking an alley" such that a "fire engine or emergency vehicle wouldn't be able to get through the alley if there was an emergency, and also there was [sic] two no-parking signs directly above the vehicle."⁵ The vehicle was in park and turned off. The officer asked Jones if he could see Jones's identification, but Jones did not want to provide it.⁶ The officer then saw Jones kick over a silver, 24-ounce can of Budweiser beer. The officer told Jones that, because he was now being detained for having an open container in a vehicle, he would

³ We obtained and reviewed the body-worn camera footage considered by the trial court during the preliminary hearing. Because Jones does not challenge his conviction on any other grounds, we do not recount testimony from his subsequent trial.

⁴ The officer's partner thought the distance between the police vehicle and the parked vehicle was "[a] couple of feet, maybe."

⁵ The two "no parking" signs were privately posted by property owners to prevent people from blocking a driveway off the alley.

⁶ The officer explained: "I said, 'Can I see your driver's license or your I.D.?' I didn't demand it." The officer did not continue to ask for Jones's identification after Jones declined to provide it.

have to give the officer his identification. Jones continued to refuse to provide identification. The officer advised Jones if he didn't provide identification, the police would take him out of the car and place him in handcuffs. The officer then ordered him to get out of the vehicle. Jones refused to exit the vehicle and engaged in a physical struggle with officers until he was subdued and placed in handcuffs.

At the hearing on the motion to suppress, the arresting officer testified that, while on patrol on March 11, 2017, around midnight, he noticed a black, four-door vehicle parked northbound in an alley. His attention was drawn to the vehicle because "[i]t was partially blocking the alley, and it was midnight. It was kind of odd to be parked in that alley at that time blocked out." He drove his patrol car past the parked vehicle, explaining that his car "fit inches past the vehicle." Because this was a potential violation of a municipal code provision that prevents blocking an alley from the passage of emergency vehicles, he and his partner decided to approach the vehicle "to enforce the municipal code violation."⁷ While his partner approached the vehicle's female driver, the officer approached Jones in the front passenger seat. The officer was holding his

⁷ San Diego Municipal Code section 86.0121 provides in relevant part: "[N]o person shall stop or stand any vehicle in an alley for a period of time longer than is necessary for the loading or unloading of passengers or materials. Such loading or unloading shall not consume more than three (3) minutes for passengers nor more than twenty (20) minutes for materials. No person shall stop or stand any vehicle in an alley in such a manner that would prevent the passage of emergency vehicles."

flashlight up over his shoulder; he flashed it into the vehicle and into Jones's face.⁸ The officer greeted Jones and asked if he could see Jones's identification. The officer described this initial contact as a "request[]," not a "demand," explaining: "At that time I didn't really have much probable cause as I would like on him or a real good reason [to demand his identification]. The driver was stopped for the [V]ehicle [C]ode violation and at that point, I wasn't terribly worried about [Jones's] identification." At this point, the officer and his partner had observed the vehicle for about one minute. No one had entered or exited the vehicle during that time, the car was off, and the officer could not feel heat coming from the car. After Jones initially declined to provide his identification, the officer did not continue to ask for it. Jones asked, "do we just need to move out of the alley?" Jones did not ask if *he* could leave, but rather phrased his question in terms of the driver as well. The officer responded that the car could not be moved out of the alley until they were finished talking. As his partner continued to investigate the potential parking violation by speaking with the vehicle's driver, the officer standing near Jones's window observed an open container of alcohol inside the vehicle, on the floorboard "near" or "under" Jones's feet. The beer can was in plain view as the officer stood in a public place. It was a 24-ounce beer can, and it tipped over, spilling its contents onto the

⁸ The body-worn camera footage shows the officer using the flashlight, in a scanning fashion, to illuminate the vehicle and the surrounding area; the officer did not keep the flashlight focused on Jones's face. The body-worn camera footage further shows that it was dark outside and the officers did not activate the patrol car's emergency lights or sirens.

floor.⁹ The officer explained that, before seeing the beer can, he would have let Jones leave if Jones had asked, but Jones never asked to leave.

The officer was aware the spilling can of beer inside the vehicle could amount to a violation of a Vehicle Code provision prohibiting an open container of alcohol inside of a vehicle.¹⁰ With the intention of citing Jones for the violation, the officer then demanded to see his identification. Jones refused to provide it.

B. Argument of Counsel and Court Ruling on Suppression Motion

The prosecutor argued that the officers were "basically doing a *Terry* stop"¹¹ which was justified because they reasonably suspected the vehicle was violating municipal code provisions prohibiting parking in an alley. While they were investigating the driver during this justified detention, the officers communicated with Jones in a manner that was reasonable. They requested his identification but did not press for it because they did not have reasonable suspicion to do so at that point, and the officers

⁹ The officer did not take pictures of the beer can or impound it. According to the timestamp on the body-worn camera footage, the officer observed the beer can approximately two minutes after the video recording starts playing.

¹⁰ Vehicle Code section 23223, subdivision (b), provides, "No passenger shall have in his or her possession, while in a motor vehicle upon a highway . . . , any bottle, can, or other receptacle containing any alcoholic beverage that has been opened or a seal broken, or the contents of which have been partially removed." A highway is "a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street." (Veh. Code, § 360; see *id.*, § 590 [defining street].) An alley "is any highway having a roadway not exceeding 25 feet in width which is primarily used for access to the rear or side entrances of abutting property" (Veh. Code, § 110.)

¹¹ *Terry v. Ohio* (1968) 392 U.S. 1 (*Terry*).

responded to Jones's questions regarding why they were investigating. Once the officer observed the open container of alcohol at Jones's feet, the officers had reasonable suspicion to demand Jones's identification for purposes of issuing Jones a citation.

Defense counsel argued that both the driver and passenger were illegally detained from the outset of the vehicle "stop" and San Diego Municipal Code section 86.0121 did not justify the detention. Counsel argued the police car was able to pass the parked vehicle, with sufficient room to pass, and the officers did not observe the vehicle long enough to determine if it had been parked for a period longer than three or 20 minutes, as permitted for the loading of passengers and materials under San Diego Municipal Code section 86.0121.

Defense counsel further argued there was no evidence that Jones knew the beer can was under his feet, that it was his, or that he had control over it; thus there was no justification to suspect he violated the open container prohibition. The police officer's repeated requests for identification amounted to a prolonged detention unwarranted under the circumstances.

In support of his claim that this was an unlawful detention rather than a consensual encounter, defense counsel argued the vehicle's occupants would have been willing to "move along" and leave the scene but did not have the opportunity to do so when they were approached by officers flashing lights in their faces. Defense counsel argued: "I think in today's world with what is happening to African-American men, that it's not unreasonable for them to be somewhat afraid when approached by officers when they're sitting in a car. Particularly when they're in uniform with the flashlight."

The trial court denied Jones's motion to suppress. The court noted the officers "didn't stop the vehicle, but they did walk up to the vehicle." Because the parked vehicle was blocking the alley, the police were justified in approaching the vehicle to investigate the driver and to contact the passenger.

"[E]verything needs to be looked at specifically as to the two different people. . . . The passenger—they can contact him. If he chooses to just sit there and say nothing, that's fine. If he asks to get out, as the officer indicated, he probably could have gotten out and left but that did not come up."

The trial court rejected defense counsel's argument that Jones was afraid as a result of how the officers approached him. The court found Jones "didn't like what was happening" and he "just doesn't know the law and felt like they were being harassed," but he "didn't indicate being afraid."

The trial court found the officer's testimony about observing the beer can to be "very credible" and found that the officer's observation of the open container of alcohol under Jones's feet justified issuing Jones a citation. Once the officer had probable cause to cite Jones for an open container violation, the officer was justified in demanding Jones's identification.

The court acknowledged suppression would be warranted "if they had extended the detention too long," but the court concluded that the detention was not prolonged and the officers' actions were "reasonable under the circumstances."

DISCUSSION

A. *Standard of Review*

" 'In reviewing a suppression ruling, "we defer to the superior court's express and implied factual findings if they are supported by substantial evidence, [but] we exercise our independent judgment in determining the legality of a search on the facts so found." ' " (*People v. Tully* (2012) 54 Cal.4th 952, 979.) "Thus, while we ultimately exercise our independent judgment to determine the constitutional propriety of a search or seizure, we do so within the context of historical facts determined by the trial court. 'As the finder of fact . . . the superior court is vested with the power to judge the credibility of the witnesses, resolve any conflicts in the testimony, weigh the evidence and draw factual inferences in deciding whether a search is constitutionally unreasonable.' [Citation.] We review its factual findings ' " 'under the deferential substantial-evidence standard.' " ' [Citation.] Accordingly, '[w]e view the evidence in a light most favorable to the order denying the motion to suppress' [citation], and '[a]ny conflicts in the evidence are resolved in favor of the superior court ruling' [citation]. Moreover, the reviewing court 'must accept the trial court's resolution of disputed facts and its assessment of credibility.' " (*Ibid.*)

Whether "there was a detention" is a pure question of law subject to independent review. (See *People v. Nickleberry* (1990) 221 Cal.App.3d 63, 68.)

B. *Analysis*

Jones contends he was unlawfully detained when officers immediately approached the vehicle in which he was a passenger, without reasonable suspicion to believe the

vehicle was unlawfully parked. Jones contends that, because he was unlawfully "seized" within the meaning of the Fourth Amendment, the trial court erred in failing to suppress the officer's subsequent observation of an open container of alcohol near Jones's feet.

Not every encounter with police implicates the Fourth Amendment. (*People v. Zamudio* (2008) 43 Cal.4th 327, 341.) The California Supreme Court has identified three categories of police encounters for purposes of analyzing a claim under the Fourth Amendment: (1) consensual encounters; (2) detentions; and (3) formal arrests. (*In re Manuel G.* (1997) 16 Cal.4th 805, 821 (*Manuel G.*)). Two of these categories are relevant here, consensual encounters and detentions, and we discuss each in turn.

A consensual encounter " "may properly be initiated by police officers even if they lack any 'objective justification.' " " (*People v. Hughes* (2002) 27 Cal.4th 287, 327.) "An officer may approach a person in a public place and ask if the person is willing to answer questions. If the person voluntarily answers, those responses, and the officer's observations, are admissible in a criminal prosecution." (*People v. Brown* (2015) 61 Cal.4th 968, 974 (*Brown*); *Fla. v. Bostick* (1991) 501 U.S. 429, 434 (*Bostick*)). In determining whether an encounter is consensual, a court considers "all the circumstances surrounding the encounter to determine whether the police conduct would have communicated to a reasonable person that the person was not free to decline the officers' requests or otherwise terminate the encounter." (*Bostick*, at p. 439.) "Such consensual encounters present no constitutional concerns and do not require justification." (*Brown*, at p. 974; *Bostick*, at p. 434.)

By contrast, an investigatory detention—whether it arises in the course of an on-the-street encounter, or following a vehicle traffic stop—must satisfy the reasonable suspicion standard of *Terry, supra*, 392 U.S. 1. (See *Brown, supra*, 61 Cal.4th at p. 974 [" '[W]hen the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen,' the officer effects a seizure of that person, which must be justified under the Fourth Amendment to the United States Constitution."], citing *Terry*, at p. 19, fn. 16; *People v. Bennett* (2011) 197 Cal.App.4th 907, 912-913 (*Bennett*).)

"A detention is reasonable under the Fourth Amendment when the detaining officer can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained may be involved in criminal activity." (*People v. Souza* (1994) 9 Cal.4th 224, 231.) "A traffic stop is lawful at its inception if it is based on a reasonable suspicion that *any* traffic violation has occurred, even if it is ultimately determined that no violation did occur." (*Brierton v. Department of Motor Vehicles* (2005) 130 Cal.App.4th 499, 510 (*Brierton*); see *People v. Wells* (2006) 38 Cal.4th 1078, 1082 ["an officer may stop and detain a motorist on reasonable suspicion that the driver has violated the law"]; *People v. Nice* (2016) 247 Cal.App.4th 928, 937-938 [reasonable suspicion of a Vehicle Code violation is sufficient to justify traffic stop]; *Bennett, supra*, 197 Cal.App.4th at pp. 912-916 [parking violation may provide officers with reasonable suspicion to conduct investigatory stop].) "For the duration of a traffic stop . . . , a police officer effectively seizes 'everyone in the vehicle,' the driver and all passengers." (*Arizona v. Johnson*

(2009) 555 U.S. 323, 327 (*Johnson*), quoting *Brendlin v. California* (2007) 551 U.S. 249, 255 (*Brendlin*).) Accordingly, a passenger in a vehicle subject to a traffic stop is entitled to challenge the validity of the stop. (*Brendlin*, at p. 251.) "The temporary seizure of driver and passengers ordinarily continues, and remains reasonable, for the duration of the stop." (*Johnson*, at p. 333.) While a vehicle is stopped, officers may extend inquiries into matters unrelated to the traffic stop, as long as doing so does not "measurably extend the duration of the stop." (*Ibid.*)

"A person is seized by the police and thus entitled to challenge the government's action under the Fourth Amendment when the officer, ' "by means of physical force or show of authority," ' terminates or restrains his freedom of movement, [citations] 'through means intentionally applied' [citation]." (*Brendlin, supra*, 551 U.S. at p. 254, italics omitted.) "Circumstances establishing a seizure might include any of the following: the presence of several officers, an officer's display of a weapon, some physical touching of the person, or the use of language or of a tone of voice indicating that compliance with the officer's request might be compelled. [Citations.] The officer's uncommunicated state of mind and the individual citizen's subjective belief are irrelevant in assessing whether a seizure triggering Fourth Amendment scrutiny has occurred." (*Manuel G., supra*, 16 Cal.4th at p. 821.)

However, it is well-settled that "mere police questioning does not constitute a seizure." (*Bostick, supra*, 501 U.S. at p. 434.) "[E]ven when officers have no basis for suspecting a particular individual, they may generally ask questions of that individual [citations]; ask to examine the individual's identification [citations]; and request consent

to search his or her luggage [citation]—as long as the police do not convey a message that compliance with their requests is required." (*Id.* at pp. 434-435; *Manuel G.*, *supra*, 16 Cal.4th at p. 821 ["As long as a reasonable person would feel free to disregard the police and go about his or her business, the encounter is consensual and no reasonable suspicion is required on the part of the officer. Only when the officer, by means of physical force or show of authority, in some manner restrains the individual's liberty, does a seizure occur."].)

In the present case, officers approached Jones while he sat as a passenger in a vehicle suspected of being illegally parked. While one officer contacted the driver to investigate a potential parking violation, another officer communicated with Jones. We find that this initial contact with Jones, before the officer observed an open container of alcohol at Jones's feet, constituted a consensual encounter based on the totality of the circumstances. The officers approached the parked vehicle without drawn weapons; although the officers had flashlights due to the dark, they never activated their patrol vehicle's emergency lights or sirens; and prior to observing the open beer can and ordering Jones to exit the vehicle, the officers did not touch Jones or make any verbal commands. (*Manuel G.*, *supra*, 16 Cal.4th at p. 821 [discussing circumstances that establish detention]; see *Brown*, *supra*, 61 Cal.4th at pp. 980, 986 [The defendant was detained under the totality of circumstances when the deputy "stopped behind the parked car and turned on his emergency lights"; the "deputy did not issue commands over a loudspeaker, draw a weapon, order [defendant] to step out of the car, or subject him to a patdown search. But for the use of the emergency lights, the encounter would have been

consensual."].) The officers did not approach in an aggressive or intimidating manner and did not ask Jones any accusatory questions. (See *United States v. Drayton* (2002) 536 U.S. 194, 203-204 [no illegal seizure where the police questioned the defendant in "a polite, quiet voice" and "did not brandish a weapon or make any intimidating movements"]; *People v. Leath* (2013) 217 Cal.App.4th 344, 353 [defendant was not seized when officers requested identification and "did not accuse defendant of any illegal activity when they first addressed him"].)

The fact that the officer asked if he could see Jones's identification did not transform this initial consensual encounter into a detention. (*Bostick, supra*, 501 U.S. at p. 434 ["mere police questioning does not constitute a seizure"]; see *People v. Castaneda* (1995) 35 Cal.App.4th 1222, 1227 [officer's request for identification "did not—by itself—escalate the encounter to a detention"].) "[E]ven when officers have no basis for suspecting a particular individual, they may generally . . . ask to examine the individual's identification . . . as long as the police do not convey a message that compliance with their request[] is required." (*Bostick*, at pp. 434-435.) Here, the officer merely inquired *if he could* see Jones's identification; he never demanded to see Jones's identification and he did not continue asking for it when Jones refused. Substantial evidence supports the trial court's determination that approaching the defendant and making this request was reasonable under the circumstances. The trial court properly denied Jones's request to

suppress the officer's observation of the beer can made during the consensual encounter.

(*Brown, supra*, 61 Cal.4th at p. 974; *Bostick*, at p. 434.)¹²

Alternatively, even if the entire encounter was not consensual and was instead akin to a typical traffic stop, we conclude detention of the vehicle and its occupants was justified by reasonable suspicion of a parking violation. The San Diego Municipal Code generally prohibits parking in an alley and expressly prohibits parking in an alley in a manner that would prevent the passage of an emergency vehicle. (San Diego Mun. Code, § 86.0121 ["no person shall stop or stand any vehicle in an alley for a period of time longer than is necessary for the loading or unloading of passengers or materials. Such loading or unloading shall not consume more than three (3) minutes for passengers nor more than twenty (20) minutes for materials. No person shall stop or stand any vehicle in an alley in such a manner that would prevent the passage of emergency vehicles."].)¹³

Here, the officers noticed the vehicle was "blocking" or "partially blocking" the alleyway around midnight. Although the officers were able to drive their patrol car past

¹² Jones relies on *People v. Spicer* (1984) 157 Cal.App.3d 213 to support his argument that he was unlawfully detained, but the case is distinguishable. The court considered the totality of circumstances and determined that defendant's freedom of movement was "practically nil" when the officer immediately, without explanation, and without giving him an option not to comply, directed the defendant to produce identification. (*Id.* at pp. 218-220.) Unlike the present case, the circumstances facing the defendant in *Spicer* were "pregnant with coercion that amount[ed] to an unlawful seizure." (*Id.* at p. 220.)

¹³ An alley is "any unnamed highway having a width of 25 feet or less and not provided with a sidewalk or sidewalks." (San Diego Mun. Code, § 81.0102.) Violators of San Diego Municipal Code parking provisions are issued citations and must pay a fee. (*Id.*, § 82.07, subds. (a) & (b).)

the vehicle, they determined it would have been difficult or impossible for a larger emergency vehicle like an ambulance or a fire engine to pass. In addition, after observing the vehicle for one minute, officers did not see passengers entering, exiting, or loading the vehicle. The vehicle was in park, turned off, and not emitting heat. Based on these observations, it was reasonable for the officers to approach the vehicle and perform an investigative detention. (*Bennett, supra*, 197 Cal.App.4th at p. 917 [affirming conviction for possession of cocaine base for sale where cocaine was discovered only after stopping defendant for illegally parking in a no parking zone; defendant's motion to suppress was properly denied because a traffic stop premised on a mere parking violation was reasonable under the Fourth Amendment].)

Jones contends the officers lacked reasonable suspicion to believe the vehicle was parked in violation of San Diego Municipal Code section 86.0121. He argues "[t]here was no evidence presented at the suppression hearing regarding the widths of ambulances, fire engines, or any other emergency vehicles in San Diego" so there was no basis for asserting emergency vehicles could not pass like the patrol car did. He further argues the officers "had no idea if passengers or materials were being loaded or unloaded and if so, for how long," and he suggests they should have waited 20 minutes to see whether passengers or materials were loaded or unloaded.

Jones is incorrect. The officer testified there was barely enough room for the patrol car to pass the parked vehicle, and the officer suspected a larger emergency vehicle like an ambulance or fire truck would not have been able to pass. The evidence was sufficient to support a detention for further investigation. (See *Brierton, supra*,

130 Cal.App.4th at p. 509 [reasonable suspicion does not mean officer must observe all elements of crime].) The officers were not "required to eliminate all innocent explanations that might account for the facts supporting a particularized suspicion." (*In re Raymond C.* (2008) 45 Cal.4th 303, 308.) Thus, it was not necessary for the officers to wait 20 minutes (or even three additional minutes) to eliminate the possibility that the vehicle was lawfully parked. (See, e.g., *People v. Saunders* (2006) 38 Cal.4th 1129, 1136 ["The question . . . is not whether [defendant's] vehicle was in fact in full compliance with the law at the time of the stop, but whether [the officer] had 'articulable suspicion' 'it was not.'"]; *Kodani v. Snyder* (1999) 75 Cal.App.4th 471, 476 ["Even if the circumstances are as consistent with lawful activity as with criminal activity, the officer may still rightfully 'inquire into such circumstances 'in the proper discharge of the officer's duties.' '"].)

Because the investigative detention was lawful at its inception based on reasonable suspicion of a parking violation, the police were allowed "to detain [the] automobile and its occupants" for the duration of the traffic stop. (*Johnson, supra*, 555 U.S. at p. 327.) They could ask Jones questions unrelated to the basis for the investigative detention, and request his identification, so long as the detention was not prolonged. (*Johnson*, at p. 333; *People v. Vibanco* (2007) 151 Cal.App.4th 1, 13-14.) Substantial evidence supports the trial court's finding that the stop was not prolonged here. One officer observed and communicated with Jones while his partner investigated the potential parking violation. The officer requested Jones's identification, but when Jones did not freely provide it, the officer did not demand to see it. The officer's partner was not

finished inquiring into the potential parking violation when the officer observed the spilling beer. The limited question directed to Jones before the beer can was detected did not transform the valid traffic stop into an illegally prolonged detention. (See *People v. Torres* (2010) 188 Cal.App.4th 775, 786 ["The 10 to 15 minutes that elapsed between the initial stop and the inventory search was not unreasonable."].)

Once the officer observed an open beer can with spilling contents "near" or "under" Jones's feet, the scope of the initial investigatory detention justifiably expanded. (*People v. Russell* (2000) 81 Cal.App.4th 96, 102 ["Circumstances which develop during a detention may provide reasonable suspicion to prolong the detention."].) Based on this observation, it was reasonable for the officers to detain Jones to investigate whether he violated Vehicle Code section 23223, subdivision (b), which prohibits a vehicle's passenger from possessing an open container of alcohol. At that point, the officer was justified in demanding Jones's identification for purposes of issuing a citation. (*Bennett, supra*, 197 Cal.App.4th at p. 913 ["[W]hen an officer suspects a person has or is violating the Vehicle Code, the officer may stop that person for the purpose of issuing a citation."].)

In sum, we conclude the trial court did not err when it denied Jones's motion to suppress. The initial encounter with Jones was consensual and did not implicate the Fourth Amendment. Even if Jones was detained during the course of a traffic stop, reasonable suspicion supported the detention to investigate a parking violation and the stop was not unduly prolonged before the officer observed an open can of beer spilling at

Jones's feet. At that point, the scope of the detention was justifiably expanded and the police could properly demand that Jones produce his identification.

DISPOSITION

The judgment is affirmed.

GUERRERO, J.

WE CONCUR:

HALLER, Acting P. J.

DATO, J.